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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROY D. NEWPORT, *et al.*,

No. C 10-04511 WHA

Plaintiffs/Counter-Defendants,

v.

BURGER KING CORPORATION,

Defendant/Counter-Claimant,

v.

ANTELOPE VALLEY RESTAURANTS, INC, *et al.*

Counter-Defendants.

**ORDER ON DEFENDANT
BURGER KING'S REQUEST AT
DOCKET NUMBER 360 FOR
LEAVE TO FILE A MOTION TO
STRIKE EVIDENTIARY
OBJECTIONS**

Defendant Burger King Corporation has submitted a “request for leave to file a motion to strike evidentiary objections in opposition to [BKC’s] motions for summary judgment [Dkt. Nos. 311 and 332], or in the alternative, request that the court overrule the evidentiary objections or grant [BKC] leave to respond to the same” (Dkt. No. 360). Plaintiffs/counter-defendants oppose (Dkt. No. 379). Strategic Restaurants Acquisition Company II, LLC, SRAC Holdings, I, Inc., and Jerry M. Comstock (“Strategic”) have not filed a response.

The request is deemed to be the motion. Civil Local Rule 7-3(a), regarding opposition briefs states, “[a]ny evidentiary and procedural objections to the motion must be contained within the brief or memorandum.” Plaintiffs/counter-defendants filed briefs in opposition to BKC’s motions for summary judgment (Dkt. Nos. 316, 319, 336). Strategic also filed briefs in opposition to BKC’s motions for summary judgment (Dkt. Nos. 310 and 315). In addition to their

1 opposition briefs, plaintiffs/counter-defendants submitted, in a separate filing, evidentiary
2 objections to the evidence submitted in support of certain of BKC's motions for summary
3 judgement (Dkt. No. 332). Strategic did the same (Dkt. No. 311)

4 Evidentiary objections "must be contained within the brief or memorandum," not filed as
5 a separate submission. Thus, the submissions at docket numbers 311 and 332 are hereby
6 **STRICKEN**. As is required, the Court will independently consider the admissibility of any
7 evidence relied on in ruling on the motions for summary judgment.

8
9 **IT IS SO ORDERED.**

10
11 Dated: December 5, 2011.

12 
13 WILLIAM ALSUP
14 UNITED STATES DISTRICT JUDGE